

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: **Pierre Colin, et al.**

Serial No.: **10/675,363**

Filing Date: **September 30, 2003**

Title: **Computer Data Transport System
and Method**

§
§
§
§
§
§

Group Art Unit: **2616**

Examiner: **Ahmed, Salman**

Attorney Docket No. **11091**

MAIL STOP APPEAL BRIEF – PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

CERTIFICATE OF FILING ELECTRONICALLY VIA EFS 37 CFR 1.8

I HEREBY CERTIFY THAT I HAVE A REASONABLE BASIS FOR BELIEF THAT THIS CORRESPONDENCE IS BEING SUBMITTED TO THE UNITED STATES PATENT AND TRADEMARK OFFICE VIA EFS (ELECTRONICALLY) ON THE DATE INDICATED BELOW, AND IS ADDRESSED TO:

MAIL STOP APPEAL BRIEF-PATENTS
COMMISSIONER FOR PATENTS
PO BOX 1450
ALEXANDRIA, VA 22313-1450

/Howard L. Speight/ Reg. No. 37,733
Howard L. Speight

DATE OF SUBMISSION: JUNE 9, 2009
ELECTRONIC FILING (EFS)

APPELLANT'S APPEAL BRIEF (37 C.F.R. § 41.37)

This brief is submitted in support of Appellant's notice of appeal from the decision of the Examiner dated December 16, 2008.

REAL PARTY IN INTEREST

The real party in interest is:

Teradata US, Inc
2835 Miami Village Drive
Miamisburg, Ohio 45342

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences, to Appellants' knowledge.

STATUS OF CLAIMS

The application as originally filed contained 24 claims. Claims 1-24 are pending. Claims 1-24 are appealed.

STATUS OF AMENDMENTS

No amendment has been filed subsequent to final rejection.

SUMMARY OF THE CLAIMED SUBJECT MATTER

Claim 1 features a method for transferring data between computer systems. Page 5, line 16 through page 6, line 15. The method includes (a) transmitting data packages from a plurality of data sources in a first computer network to a first gateway. Page 5, line 16 through page 6, line 2; page 6, lines 18-20; page 6, line 23 through page 7, line 20; Fig. 2, elements 205-225; page 8, lines 15-28; Fig. 3, elements 310 and 320; Figs. 4, 5, and 8. The method further includes (b) transmitting the data packages from the first gateway to a second gateway. Page 6, lines 20-21; page 7, line 21 through page 8, line 2; Fig. 3, element 330; Fig. 6. The method further includes (c) transmitting the data packages from the second gateway to a plurality of data destinations in a second computer network. Page 6,

lines 3-15, lines 21-22; page 7, lines 4-14; Fig. 2, elements 210, 245-255; Fig. 3, element 340; Fig. 7. The method further includes (d) transmitting acknowledgement messages from the data destinations to the second gateway. Page 8, lines 12-14; Fig. 7, element 730. The method further includes (e) generating pause messages at the second gateway based at least in part on the reception of acknowledgement messages by the second gateway. Page 7, lines 23-26; Fig. 6, elements 620, 630, and 640. The method further includes (f) transmitting the pause messages from the second gateway to the first gateway. Page 7, line 27; Fig. 6, element 650.

Claim 9 features computer program, stored on a computer-readable tangible storage medium, for transferring data between computer systems. Page 5, line 16 through page 6, line 15. The program includes executable instructions that cause one or more computers to (a) transmit data packages from a plurality of data sources in a first computer network to a first gateway. Page 5, line 16 through page 6, line 2; page 6, lines 18-20; page 6, line 23 through page 7, line 20; Fig. 2, elements 205-225; page 8, lines 15-28; Fig. 3, elements 310 and 320; Figs. 4, 5, and 8. The program further includes executable instructions that cause the one or more computers to (b) transmit the data packages from the first gateway to a second gateway. Page 6, lines 20-21; page 7, line 21 through page 8, line 2; Fig. 3, element 330; Fig. 6. The program further includes executable instructions that

cause the one or more computers to (c) transmit the data packages from the second gateway to a plurality of data destinations in a second computer network. Page 6, lines 3-15, lines 21-22; page 7, lines 4-14; Fig. 2, elements 210, 245-255; Fig. 3, element 340; Fig. 7. The program further includes executable instructions that cause the one or more computers to (d) transmit acknowledgement messages from the data destinations to the second gateway. Page 8, lines 12-14; Fig. 7, element 730. The program further includes executable instructions that cause the one or more computers to (e) generate pause messages at the second gateway based at least in part on the reception of acknowledgement messages by the second gateway. Page 7, lines 23-26; Fig. 6, elements 620, 630, and 640. The program further includes executable instructions that cause the one or more computers to (f) transmit the pause messages from the second gateway to the first gateway. Page 7, line 27; Fig. 6, element 650.

Claim 17 features a system for storing and transferring data. Page 5, line 16 through page 6, line 15. The system includes a plurality of data sources. Page 5, lines 17-18; Fig. 2, element 215. The system further includes a first gateway coupled to the data sources. Page 5, lines 18-21; Fig. 2, elements 220 and 225. The system further includes a second gateway coupled to the first gateway. Page 6, line 7-13; Fig. 2, element 255. The system further includes a plurality of data destinations coupled to the second gateway. Page 6, lines 3-7; Fig. 2, elements

245, 250, and 255. (a) Data packages are transmitted from the plurality of data sources to the first gateway. Page 5, line 16 through page 6, line 2; page 6, lines 18-20; page 6, line 23 through page 7, line 20; Fig. 2, elements 205-225; page 8, lines 15-28; Fig. 3, elements 310 and 320; Figs. 4, 5, and 8. (b) The data packages are transmitted from the first gateway to the second gateway. Page 6, lines 20-21; page 7, line 21 through page 8, line 2; Fig. 3, element 330; Fig. 6. (c) The data packages are transmitted from the second gateway to the plurality of data destinations. Page 6, lines 3-15, lines 21-22; page 7, lines 4-14; Fig. 2, elements 210, 245-255; Fig. 3, element 340; Fig. 7. (d) Acknowledgement messages are transmitted from the data destinations to the second gateway. Page 8, lines 12-14; Fig. 7, element 730. (e) Pause messages are generated at the second gateway based at least in part on the reception of the acknowledgement messages by the second gateway. Page 7, lines 23-26; Fig. 6, elements 620, 630, and 640. (f) The pause messages are transmitted from the second gateway to the first gateway. Page 7, line 27; Fig. 6, element 650.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

1. Whether claims 1, 3, 4, 6, 8, 9, 11-12, 14, 16, 17, 19, 20, 22, and 24 are unpatentable under 35 USC 103(a) over United States Patent Publication 2003/0123466 (hereinafter “Somekh”) in view of United States Patent No.

6,252,849 (hereinafter “Rom”).

2. Whether claims 2, 7, 10, 15, 18, and 23 are unpatentable under 35 USC 103(a) over Somekh in view of Rom and further in view of United States Patent Publication No. 2004/0196785 (hereinafter “Janakiraman”).

3. Whether claims 5, 13, and 21 are unpatentable under 35 USC 103(a) over Somekh in view of Rom and further in view of United States Patent Publication No. 2002/0075873 (hereinafter “Lindhorst-ko”).

ARGUMENT

- A. The Final Office Action’s combination of Somekh and Rom does not teach e) generating pause messages at the second gateway based at least in part on the reception of acknowledgement messages by the second gateway or (f) transmitting the pause messages from the second gateway to the first gateway, as required by independent claims 1, 9, and 17.**

The Final Office Action rejected claims 1, 3, 4, 6, 8, 9, 11-12, 14, 16, 17, 19, 20, 22, and 24 under 35 USC 103(a) as being unpatentable over United States Patent Publication 2003/0123466 (hereinafter “Somekh”) in view of United States Patent No. 6,252,849 (hereinafter “Rom”). Final Office Action at 2.

The instant application involves transferring data between computer systems. Independent claims 1, 9, and 17 require (e) generating pause messages at the second gateway based at least in part on the reception of acknowledgement messages by the second gateway and (f) transmitting the pause messages from the second gateway to the first gateway. The Final Office Action argued that Somekh teaches both of these elements. Final Office Action at 3. In particular, the Final Office Action equated Somekh’s Gateway A with the instant claims’ first gateway and Somekh’s Gateway B with the instant claims’ second gateway. The Final Office Action admitted that Somekh does not teach pause messages but argues that element is taught by Rom. Final Office Action at 3.

The Final Office Action made one argument regarding the sequence of events in Somekh that it regarded as teaching elements (e) and (f) of the instant claims. Final Office Action at 3. The Advisory Action changed that argument and identified another sequence of events:

Specifically, Somekh further teaches in figure 9C, paragraph 0227, in some embodiments of the invention, when gateway 36B finally receives packet 312, it transmits a frame 314 with values taken from packet 312. When gateway 36B receives a frame 316 generated responsive to this frame 314, it transmits packet 318 to gateway 36A and transmits response frame to modem 32B.

Clearly, the message flows as follows:

- 1) Modem A sends message 310 to Gateway A,
- 2) Gateway A sends 312 message to Gateway B,
- 3) Gateway B sends 314 to Modem B,
- 4) Modem B responses with message 316 to Gateway B,
- 5) Gateway B responses with 318 to Gateway, and
- 6) Gateway A responses with 322 to Modem A. Advisory Action at 2.

Thus, according to the Advisory Action, Somekh discloses all of the subject matter of elements (e) and (f) of independent claims 1, 9, and 17 except “pause messages,” which the Final Office Action argued is taught by Rom.

Appellant respectfully disagrees. Somekh uses Fig. 9C to describe several different circumstances. The first circumstance, described in Somekh [0226], occurs when “more than a predetermined time passes between the end of the connection establishment negotiation stage on network 34B and gateway 34B did not yet receive packet 312.” The second circumstance, described in Somekh

[0227], occurs when “gateway 36B receives packet 312 before the connection establishment negotiation stage on network 34B is completed.” Those two circumstances were the bases of the Final Office Action’s argument regarding elements (e) and (f) of independent claims 1, 9, and 17. Appellant refuted those arguments in its response to the Final Office Action and the Advisory Action did not repeat them.

The Advisory Action relies on a third circumstance, described in Somekh [0227], in which “gateway 36B finally receives packet 312.” The third circumstance occurs when the problem addressed in the first circumstance is corrected by the receipt of packet 312 by gateway 36B. Thus, Somekh [0227] describes the “normal” flow of communications, i.e., one that is not concerned with Somekh’s “connection establishment negotiation stage.” In those circumstances, the pause message required by elements (e) and (f) of independent claims 1, 9, and 17 is not needed, even if such a message is taught by Rom.

Thus, the Final Office Action’s combination of Somekh and Rom does not render independent claims 1, 9, and 17 obvious and those claims are patentable. Claims 3, 4, 6, 8, 11-12, 14, 16, 19, 20, 22, and 24 depend from one of claims 1, 9, and 17 and are patentable for at least the same reasons. Appellant respectfully requests that this rejection be reversed.

B. The Final Office Action's combination of Somekh, Rom, and Janakiraman does not render claims 2, 7, 10, 15, 18, and 23 obvious for the same reasons.

The Final Office Action rejected claims 2, 7, 10, 15, 18, and 23 under 35 USC 103(a) as being unpatentable over Somekh in view of Rom and further in view of United States Patent Publication No. 2004/0196785 (hereinafter "Janakiraman"). Final Office Action at 12. Claims 2, 7, 10, 15, 18, and 23 depend from one of independent claims 1, 9, and 17. Appellant has shown that the Final Office Action's combination of Somekh and Rom is missing elements of independent claims 1, 9, and 17. The Final Office Action's combination of Somekh and Rom is missing the same elements in claims 2, 7, 10, 15, 18, and 23. The Final Office Action does not argue that Janakiraman provides the missing elements. Therefore, the Final Office Action's combination of Somekh, Rom and Janakiraman would be missing the same elements. Appellant respectfully requests that this rejection be reversed.

C. The Final Office Action's combination of Somekh, Rom, and Lindhorst-ko does not render claims 5, 13, and 21 obvious for the same reasons.

The Final Office Action rejected claims 5, 13, and 21 under 35 USC 103(a) as being unpatentable over Somekh in view of Rom and further in view of United States Patent Publication No. 2002/0075873 (hereinafter "Lindhorst-ko"). Final Office Action at 14. Claims 5, 13, and 21 depend from one of independent claims

1, 9, and 17. Appellant has shown that the Final Office Action's combination of Somekh and Rom is missing elements of independent claims 1, 9, and 17. The Final Office Action's combination of Somekh and Rom is missing the same elements of claims 5, 13, and 21. The Final Office Action does not argue that Lindhorst-ko provides the missing elements. Therefore, the Final Office Action's combination of Somekh, Rom and Lindhorst-ko would be missing the same elements. Appellant respectfully requests that this rejection be reversed.

Summary

In light of the foregoing, Appellant respectfully requests that the final rejection of the pending claims be reversed and the application be remanded for allowance of the pending claims, or, alternatively, that the application be remanded for further examination if appropriate references can be found by the examiner.

Appellant requests that any fees required with this submission be debited from deposit account number 50-4370.

Respectfully submitted,

/Howard L. Speight/
Howard L. Speight
Reg. No. 37,733
9601 Katy Freeway
Suite 280
Houston, Texas 77024
Telephone: (713) 881-9600
Facsimile: (713) 715-7384
E.Mail: howard@hspeight.com
ATTORNEY FOR APPELLANT

Date: June 9, 2009

CLAIMS APPENDIX

1. A method for transferring data between computer systems, comprising the steps of:

- (a) transmitting data packages from a plurality of data sources in a first computer network to a first gateway;
- (b) transmitting the data packages from the first gateway to a second gateway;
- (c) transmitting the data packages from the second gateway to a plurality of data destinations in a second computer network;
- (d) transmitting acknowledgement messages from the data destinations to the second gateway;
- (e) generating pause messages at the second gateway based at least in part on the reception of acknowledgement messages by the second gateway;
and
- (f) transmitting the pause messages from the second gateway to the first gateway.

2. The method of claim 1 where the first gateway includes a mailbox and an output task, the data packages are transmitted to the mailbox in step (a), and the output task retrieves data packages stored in the mailbox.

3. The method of claim 1 further comprising the step of:

- (g) transmitting the pause messages from the first gateway to the plurality of data sources.

4. The method of claim 1 where step (a) is performed by a plurality of sending tasks created by the data sources.
5. The method of claim 1 further comprising the steps of:
 - (g) adding sequence identifiers to the data packages in step (a);
 - (h) checking the sequence identifiers added in step (g) at the first gateway;
 - (i) adding sequence identifiers to the data packages in step (c); and
 - (j) checking the sequence identifiers added in step (i) at the data destinations.
6. The method of claim 1 where the first gateway includes an input task and an output task, the second gateway includes an input task and an output task, step (b) is performed by the output task of the first gateway, steps (c) and (e) are performed by the input task of the second gateway, and step (f) comprises transmitting the pause messages from the output task of the second gateway to the input task of the first gateway.
7. The method of claim 1, further comprising the steps of:
 - (g) transmitting acknowledgement messages from the first gateway to the data sources; and
 - (h) counting the acknowledgement messages received at each data source.
8. The method of claim 1, further comprising the steps of:
 - (g) sending messages with data package transfer information from the data sources to the first gateway;
 - (h) sending a message with the data package transfer information from the first gateway to the second gateway;
 - (i) sending messages with the data package transfer information from the second gateway to the data destinations; and

(j) checking the data package transfer information at the data destinations.

9. A computer program, stored on a computer-readable tangible storage medium, for transferring data between computer systems, the program including executable instructions that cause one or more computers to:

- (a) transmit data packages from a plurality of data sources in a first computer network to a first gateway;
- (b) transmit the data packages from the first gateway to a second gateway;
- (c) transmit the data packages from the second gateway to a plurality of data destinations in a second computer network;
- (d) transmit acknowledgement messages from the data destinations to the second gateway;
- (e) generate pause messages at the second gateway based at least in part on the reception of acknowledgement messages by the second gateway; and
- (f) transmit the pause messages from the second gateway to the first gateway.

10. The computer program of claim 9 where the first gateway includes a mailbox and an output task, the data packages are transmitted to the mailbox in step (a), and the output task is capable of retrieving data packages stored in the mailbox.

11. The computer program of claim 9 where the executable instructions further cause the one or more computers to:

- (g) transmit the pause messages from the first gateway to the plurality of data sources.

12. The computer program of claim 9 where step (a) is performed by a plurality of sending tasks created by the data sources.

13. The computer program of claim 9 where the executable instructions further cause the one or more computers to:

- (g) add sequence identifiers to the data packages in step (a);
- (h) check the sequence identifiers added in step (g) at the first gateway;
- (i) add sequence identifiers to the data packages in step (c); and
- (j) check the sequence identifiers added in step (i) at the data destinations.

14. The computer program of claim 9 where the first gateway includes an input task and an output task, the second gateway includes an input task and an output task, step (b) is performed by the output task of the first gateway, steps (c) and (e) are performed by the input task of the second gateway, and step (f) comprises transmitting the pause messages from the output task of the second gateway to the input task of the first gateway.

15. The computer program of claim 9 where the executable instructions further cause the one or more computers to:

- (g) transmit acknowledgement messages from the first gateway to the data sources; and
- (h) count the acknowledgement messages received at each data source.

16. The computer program of claim 9 where the executable instructions further cause the one or more computers to:

- (g) send messages with data package transfer information from the data sources to the first gateway;
- (h) send a message with the data package transfer information from the first gateway to the second gateway;

- (i) send messages with the data package transfer information from the second gateway to the data destinations; and
- (j) check the data package transfer information at the data destinations.

17. A system for storing and transferring data , the system comprising:

a plurality of data sources;
a first gateway coupled to the data sources;
a second gateway coupled to the first gateway; and
a plurality of data destinations coupled to the second gateway;
where:

- (a) data packages are transmitted from the plurality of data sources to the first gateway;
- (b) the data packages are transmitted from the first gateway to the second gateway;
- (c) the data packages are transmitted from the second gateway to the plurality of data destinations;
- (d) acknowledgement messages are transmitted from the data destinations to the second gateway;
- (e) pause messages are generated at the second gateway based at least in part on the reception of the acknowledgement messages by the second gateway; and
- (f) the pause messages are transmitted from the second gateway to the first gateway.

18. The system of claim 17 where the first gateway includes a mailbox and an output task, the data packages are transmitted to the mailbox in step (a), and the output task is capable of retrieving data packages stored in the mailbox.

19. The system of claim 17 where:

(g) the pause messages are transmitted from the first gateway to the plurality of data sources.

20. (original) The system of claim 17 where step (a) is performed by a plurality of sending tasks created by the data sources.

21. The system of claim 17 where:

(g) sequence identifiers are added to the data packages in step (a);

(h) the sequence identifiers added in step (g) are checked at the first gateway;

(i) sequence identifiers are added to the data packages in step (c); and

(j) the sequence identifiers added in step (i) are checked at the data destinations.

22. The system of claim 17 where the first gateway includes an input task and an output task, the second gateway includes an input task and an output task, step (b) is performed by the output task of the first gateway, steps (c) and (e) are performed by the input task of the second gateway, and step (f) comprises transmitting the pause messages from the output task of the second gateway to the input task of the first gateway.

23. The system of claim 17 where:

(g) acknowledgement messages are transmitted from the first gateway to the data sources; and

(h) the acknowledgement messages received at each data source are counted.

24. The system of claim 17 where:

- (g) messages with data package transfer information are sent from the data sources to the first gateway;
- (h) a message with the data package transfer information is sent from the first gateway to the second gateway;
- (i) messages with the data package transfer information are sent from the second gateway to the data destinations; and
- (j) the data package transfer information is checked at the data destinations.

EVIDENCE APPENDIX

NONE

RELATED PROCEEDINGS APPENDIX

NONE